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EXAMINER ABRAHAM, TANIA				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/569,231

Applicant(s)

DORICKO, PETER

Examiner

Tania Abraham

Art Unit

3636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Specification

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following titles are suggestion: A seat area with adjustable width, formed from plate blank; A seat area having adjustable width, formed from single sheet material; A seat area having an adjustable gap.

Claim Objections

Claim 10 is objected to because it recites the limitation "sitting furniture article" in line 7. The limitation "sitting furniture article" should be replaced with --sitting article structure--.

Claim 12 is objected to because it recites the limitations "are closer to each than" in line 26, and "a spacing remaining between the," in line 27. It seems these limitations are incomplete, missing a term(s). In line 5, commas - for separating the seat area sections listed, are missing. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10 does not properly define the structural limitations of the seat area as it pertains to the "truncated lateral cone area". How is the term "lateral" meant to further define the truncated cone area? While the claim appears to be defining the seat area in its deformed state, the limitations in lines 4-6 pertaining to the surface straight lines, straight lines planes, their tangents and normal lines, seem to be describing the seat area in it's flat state; so it is unclear what structure and shape is actually being defined. Also, since curves and lines can have many tangents and normal lines, the limitations in lines 4-6 relying on these geometric references are vague and do not positively define the orientations and intersections of these geometric references to sufficiently and distinctly claim the structure they are meant to define.

Claim 10 is replete with limitations lacking antecedent basis:

Claim 10 recites the limitation "the sitting article" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the central surface straight line" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the carrying structure" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "the said longitudinal axially symmetric cut-out" in line 10. There is insufficient antecedent basis for this limitation in the claim.

Claim 10 recites the limitation "said two straight areas" in lines 10-11. There is insufficient antecedent basis for this limitation in the claim.

Claim 11 depends from claim 1, which is canceled. For the purposes of examination on the merits, claim 11 will be presumed to depend from claim 10.

**In light of the above rejections the claims will be further treated on the merits as best understood.*

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Mauser (US 3014762). With reference to figures 1-3 and 5, Mauser discloses a seat area comprising: a central axially symmetric cut-out (5) and fastened on a sitting article structure; wherein the seat area gets a form of a section of a truncated lateral cone area delimited by two circular arches (5, 6) and by two surface straight lines (3a, 3b) to which two straight-line planes are attached further delimited by tangents (at the terminal points of the straight lines) and by normal lines (normal to the terminal points), a part of the truncated lateral cone area is attached along a central surface straight line (3) to a carrying structure of the sitting article structure, and the normal lines are connected to a level element (19) of the carrying structure, which is perpendicular to a seat area vertical symmetry plane, a longitudinal axially symmetric cut-out being situated between two straight areas.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mauser in view of Fleishman (US 5154485). Mauser teaches the seat area is formed from a flat blank consisting at least of a single-piece blank, but fails to teach the blank delimited by concentric arches having straight lines extending therefrom to normal lines. However, Fleishman teaches a seat area formed from a single-piece blank delimited by two concentric circular arches with a center angle between 10 and 170 degrees, tangents in the end points of straight lines of said arches, and normal lines at the ends of said tangents. Fleishman teaches this seat area shape as one type of configuration for providing a flat seat area deformable into a supporting element of a chair. So it would have been obvious to a person of ordinary skill in the art at the time of invention to try the circular concentric arches and rectangular end portions with the seat area of Mauser, as taught by Fleishman, in order to yield the predictable result of providing a flat seat area that is deformable into a supporting seat area to be used with a carrying structure to comprise a chair; as a person with ordinary skill has good reason to pursue the known options within his or her technical grasp.

Claims 12-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saarinen (GB 699608) in view of Fleishman (US 5154485). Re claim 12, with reference

to figures 1-3, Saarinen teaches a chair comprised of a seat area in a deformed state (22); and a carrying structure (20); wherein the seat area in a flat state has edges defined by a central section (34b, 39b), a first outer section (30, 28), and a second outer section (32, 28); wherein the central section is comprised of a first arch (34b) extending between a first side first arch terminating point and a second side first arch terminating point so as to define a center angle, and a second circular arch (39b) extending between a first side second arch terminating point and a second side second arch terminating point so as to define a center angle; wherein the first outer section is comprised of a first tangent line extending from the first side first arch terminating point to a first tangent line terminating point (from portion 30b to 28b), a second tangent line extending from the first side second arch terminating point to a second tangent line terminating point (from portion 30b to portion 28b adjacent 41b), and a first normal line (38b) extending between the first tangent line terminating point and the second tangent line terminating point; wherein the second outer section is comprised of a third tangent line extending from the second side first arch terminating point to a third tangent line terminating point (from portion 32b to portion 28b), a fourth tangent line extending from the second side second arch terminating point to a fourth tangent line terminating point (from portion 32b to portion 28b adjacent 41b), and a second normal line (38b) extending between the third tangent line terminating point and the fourth tangent line terminating point; wherein the second tangent line and the fourth tangent line are closer to each other than the first tangent line and the third tangent line, a spacing remaining between the outer sections; and wherein the carrying structure (20) is attached to the

seat area along the central section (34b, 39b), the first normal line (38b) and the second normal line (38b). Saarinen fails to teach the arches being circular and concentric, and the normal lines forming right angles with both of their corresponding tangent lines.

However, with reference to figures 31-32 and 40-43, Fleishman teaches a seat area in a deformed state (140/171), and the seat area in a flat state (figures 31-32) has edges defined by a central section, a first outer section (61), and a second outer section (61); wherein the central section is comprised of a first circular arch extending between a first side first arch terminating point and a second side first arch terminating point so as to define a center angle, and a second circular arch extending between a first side second arch terminating point and a second side second arch terminating point so as to define the same center angle, the first circular arch being concentric with and parallel to the second circular arch; wherein the first outer section (61) is comprised of a first tangent line extending from the first side first arch terminating point to a first tangent line terminating point, a second tangent line extending from the first side second arch terminating point to a second tangent line terminating point, and a first normal line (142) extending between the first tangent line terminating point and the second tangent line terminating point, the first normal line forming right angles with both the first tangent line and the second tangent line; wherein the second outer section is comprised of a third tangent line extending from the second side first arch terminating point to a third tangent line terminating point, a fourth tangent line extending from the second side second arch terminating point to a fourth tangent line terminating point, and a second normal line (143) extending between the third tangent line terminating point and the fourth tangent

line terminating point, the second normal line forming right angles with both the third tangent line and the fourth tangent line; and wherein the second tangent line and the fourth tangent line are closer to each other than the first tangent line and the third tangent line, a spacing remaining between the outer sections. Fleishman teaches this seat area shape as one type of configuration for providing a flat seat area deformable into a supporting element of a chair.

Thus, it would have been obvious to a person of ordinary skill in the art at the time of invention to try the circular concentric arches and rectangular end portions with the seat area of Saarinen, as taught by Fleishman, in order to yield the predictable result of providing a flat seat area that is deformable into a supporting seat area to be used with a carrying structure to comprise a chair; as a person with ordinary skill has good reason to pursue the known options within his or her technical grasp.

Re claim 13, with reference to Fleishman's teaching, the chair of Saarinen as modified by Fleishman would have the center angle of the arches greater than or equal to 10 degrees, and less than or equal to 170 degrees.

Re claim 14, with reference to Saarinen's teaching, the chair of Saarinen as modified by Fleishman would have the deformed state of the seat area obtained by its fastening to the carrying structure.

Re claims 15 and 16, with reference to Fleishman's teaching, the chair of Saarinen as modified by Fleishman teaches a spacing between the second and fourth tangent lines in the seat area's deformed state, and an angle between the central section's deformed and flat states, but they fail to teach the specific dimensions of the

spacing and angle. However, the specific dimensions of these characteristics are considered a matter of design choice since the various dimensions, including those claimed, would not result in a change in function of the seat area and yield the predictable result of providing a seat area for a chair. Thus, it would have been obvious to a person of ordinary skill in the art to try the spacing and angle as claimed in order to provide a deformable seat area for a chair.

Re claim 17, with reference to Fleishman's teaching, the chair of Saarinen as modified by Fleishman would have seat area configured wherein the first tangent line extends at a zero degree angle from the first side first arch terminating point, the second tangent line extends at a zero degree angle from the first side second arch terminating point, the third tangent line extends at a zero degree angle from the second side first arch terminating point, and the fourth tangent line extends at a zero degree angle from the second side second arch terminating point.

Response to Arguments

Applicant's arguments that Mauser fails to teach concentric circular arches, a spacing, and deformation facilitated by the carrying structure have been considered but are moot in view of the new grounds of rejection. Regarding new claim 10, Mauser is fully explained in the rejection above with respect to the claim limitations.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tania Abraham whose telephone number is 571-272-2635. The examiner can normally be reached on Monday - Friday, 8:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Dunn can be reached on 571-272-6670. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3636

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. A./

Examiner, Art Unit 3636

February 2, 2008

/DAVID DUNN/

Supervisory Patent Examiner, Art Unit 3636